

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1300 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.M.SONI

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PRESIDENT,

Versus

HARIVADAN VADILAL SHAH

Appearance:

MR SI NANAVATI for Petitioners
MR MAGANBHAI M DESAI for Respondent No. 1
MR SN SHELAT for Respondent No. 2
Mr.P.S.Champaneri for Respondent No. 3

CORAM : MR.JUSTICE S.M.SONI

Date of decision: 25/04/96

ORAL JUDGEMENT

Petitioner no.2- college is run by petitioner no.1 - trust. They have filed this petition under Article 227 of the Constitution of India, challenging the legality and propriety of the order dated 6.10.83 passed in Application no.13 of 1983 by the Gujarat Affiliated Colleges Services Tribunal at Ahmedabad. The said order

is challenged on the ground that the same is bad inasmuch as the same is passed without application of mind and is also based on misinterpretation of Ordinance 120-F of the Gujarat University.

Respondent no.1 was appointed as a Lecturer with effect from 15.6.64 vide Ex. 29. He having experience of two years as a Tutor, though he had passed B.Sc. with Second Class and M.Sc. with Pass Class, was qualified for appointment on the post of Lecturer. Petitioners decided to continue the subjects of Botany and Zoology simultaneously in 2nd year and 3rd year of B.Sc. along with first year. According to the Ordinance 120 F of the Gujarat University, certain procedure is required to be followed to discontinue the subjects in the college and that can be done from year to year. Without following the said procedure, said subjects were discontinued and the services of the respondent no.1 came to be terminated. Respondent no.1 made a representation to the University against discontinuation of subjects of Botany and Zoology and termination of his service. The University by the order dated 11.5.72 informed the college that the termination was not in consonance with the provisions contained in Ordinance 120 F and directed the Management in-charge of the college to take back the respondent no.1 in service. As the respondent no.1 was not reinstated, he moved the Civil Court for the same. However, on coming into operation of the Gujarat Affiliated Colleges Services Tribunal, the said suit stood transferred to the Tribunal and the Tribunal, after hearing the parties, held that the order of discontinuation of subjects and terminating the services was not in consonance and compliance of Ordinance 120-F and directed reinstatement with back wages, however, subject to a statement to be filed by respondent no.1 that he was not gainfully employed during that period.

Perusing the order passed by the Tribunal, it is clear, more particularly because the facts are not disputed, that the petitioners have not followed the procedure required under Ordinance 120 F of the Gujarat University. The order passed of discontinuing the subjects and terminating the services of the petitioner, therefore, is held illegal and improper. On reading the order of the Tribunal, I am not able to find any jurisdictional error committed by the Tribunal; nor can it be said that the Tribunal has misconstrued Ordinance 120-F of the Gujarat University.

Supreme Court in the case of Mohd. Yunus vs. Mohd Mustaqim (A.I.R. 1984 SC 38) has held as under:-

"7. The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is limited "to seeing that an inferior court or Tribunal functions within the limits of its authority" and not to correct an error apparent on the face of the record, much less an error of law.... In exercising the supervisory power under Art.227, the High Court does not act as an appellate court or Tribunal. It will not review or reweigh the evidence upon which the determination of the inferior court or tribunal purports to be based or to correct errors of law in the decision".

In view of this decision, as there is neither any procedural irregularity nor any illegality nor any misconstruction of provisions of law, this court has no jurisdiction to interfere with the order passed by the Tribunal.

In the result, the petition fails and is dismissed. Rule discharged. Interim relief vacated. No costs.
